

EXHIBIT E

04953.00399-HBM

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ATTORNEYS FOR DEFENDANT – WORLD WIDE LAND TRANSFER, LLC f/k/a WORLD
WIDE LAND TRANSFER, INC.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
TRENTON VICINAGE**

STEWART TITLE GUARANTY
COMPANY,

Plaintiff,

v.

LAW OFFICES OF DAVID
FLEISCHMANN, P.C., DAVID
FLEISCHMANN, ESQUIRE, ANDREW
SELEVAN, ESQUIRE AND WORLD WIDE
LAND TRANSFER, LLC f/k/a WORLD
WIDE LAND TRANSFER, INC.,

Defendants.

WORLD WIDE LAND TRANSFER, LLC,

Third Party Plaintiff,

v.

LAW OFFICES OF DAVID
FLEISCHMANN, P.C., and DAVID
FLEISCHMANN, ESQUIRE,
INDIVIDUALLY,

Third Party Defendants.

CIVIL ACTION NO. 3:21-CV-16713

THIRD PARTY COMPLAINT

Defendant/Third Party Plaintiff, World Wide Land Transfer, LLC, by way of third party complaint against The Law Offices of David Fleischmann, P.C., and David Fleischmann, Esq., individually, alleges the following:

PARTIES

1. Defendant/Third Party Plaintiff, World Wide Land Transfer, LLC, is a Pennsylvania limited liability company.
2. Third Party Defendant, The Law Offices of David Fleischmann, P.C. (the “Law Firm”) is a New York professional corporation, with its principal place of business in New York.
3. Third Party Defendant, David Fleischmann, Esq., is a member of the Bars of New York and New Jersey.
4. Mr. Fleischmann is a principal of the Law Firm.

JURISDICTION AND VENUE

5. The Plaintiff, Stewart Title Guaranty Company, has filed suit against World Wide. Mr. Fleischmann and the Law Firm were Defendants and the complaint against them was dismissed without prejudice.
6. The Plaintiff has pled that complete diversity of citizenship exists among the parties and the Court’s jurisdiction has not been contested.

FACTUAL BACKGROUND

7. The Plaintiff filed suit against the Defendant/Third Party Plaintiff World Wide, and the proposed Third Party Defendants, David Fleischmann, Esq., and the Law Firm. The amended complaint is attached as Exhibit A. In paragraphs 21 through 33 of the amended complaint, the Plaintiff describes the transactions, which are the subject of the Plaintiff’s claim. The allegations in those paragraphs are incorporated as if set forth fully at length herein.

8. Each of the properties at issue at all relevant times was encumbered by a mortgage in favor of PrivCap Funding, LLC, which PrivCap assigned to PS Funding.

9. At the time of the closings, either the proposed Third Party Defendants or Defendant Selevan provided to World Wide the payoff instructions, attached to the amended complaint as Exhibits G and H. The payoff instructions for the PrivCap mortgages directed that the funds be sent to the proposed Third Party Defendant Law Firm.

10. Pursuant to the payoff instructions, World Wide sent funds to the Third Party Defendants for the purpose of satisfying the PrivCap mortgages.

11. The Third Party Defendants did not, despite instructions from World Wide, send the money to PrivCap in order to satisfy the mortgages. The money sent by World Wide to the Third Party Defendants was sent to individuals and entities, who were strangers to the transaction.

12. On May 13, 2020, PrivCap commenced foreclosure actions.

13. PS Funding made claims under the title policies to the Plaintiff, Stewart Title Guaranty Company, which retained counsel to defend the priority of the insured mortgages held by PS Funding.

14. The Plaintiff paid PrivCap in excess of \$1,000,000 in order to satisfy its mortgages.

COUNT I

15. The Third Party Plaintiff repeats the allegations in the preceding paragraphs as if set forth fully at length herein.

16. At all relevant times, Fleischmann was an agent of the Law Firm, acting within the scope of his employment or other relationship with the Law Firm.

17. Third Party Plaintiff, World Wide, provided funds to Fleischmann and the Law Firm for satisfaction of the PS Funding mortgages and reasonably relied on Fleischmann and the Law Firm to forward the funds to PS Funding.

18. Fleischmann and the Law Firm were negligent in failing to remit the payoff funds to PrivCap or PS Funding to pay off the prior mortgages.

WHEREFORE, the Third Party Plaintiff demands judgment against the Third Party Defendants for contribution and indemnification of any funds that the Third Party Plaintiff is adjudged to be liable to the Plaintiff for the transactions described above.

COUNT II

19. The Third Party Plaintiff repeats the allegations in the preceding paragraphs as if set forth fully at length herein.

20. The Third Party Defendants transferred all or a portion of the payoff funds to recipients other than PrivCap or PS Funding.

21. The actions of the Law Firm and Fleischmann constitute a conversion of the payoff funds.

WHEREFORE, the Third Party Plaintiff demands judgment against the Third Party Defendants for contribution and indemnification of any funds that the Third Party Plaintiff is adjudged to be liable to the Plaintiff for the transactions described above.

COUNT III

22. The Third Party Plaintiff repeats the allegations in the preceding paragraphs as if set forth fully at length herein.

23. The Third Party Defendants provided false closing instructions to the Third Party Plaintiff, with the intent that the Third Party Plaintiff would rely on the closing instructions.

24. The Third Party Plaintiff has been damaged as a result of the fraudulent acts of the Third Party Defendants as described above.

WHEREFORE, the Third Party Plaintiff demands judgment against the Third Party Defendants for contribution and indemnification of any funds that the Third Party Plaintiff is adjudged to be liable to the Plaintiff for the transactions described above.

DESIGNATION OF TRIAL COUNSEL

Howard Mankoff, Esq. is hereby designated as trial counsel.

JURY DEMAND

Third Party Plaintiff hereby demands a trial by jury as to all issues so triable.

MARSHALL DENNEHEY
Counsel for Defendant/Third Party Plaintiff,
WORLD WIDE LAND TRANSFER, LLC

BY: /s/ *Howard B. Mankoff*
HOWARD B. MANKOFF, ESQ.

Dated: December ___, 2023

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